

from the lips of the user; placing said membrane over said frame;
interposing said frame with said membrane between the user and an
intended recipient of a kiss; [when the membrane is interposed
between the kissing parties,] positioning [the] said frame with
said membrane proximate[ly] to the lips or cheek of the intended
recipient [of the affection,]; and kissing said intended recipient.

Claim 21 (Amended). [A] The method according to Claim 20
wherein [a separate thin, flexible] an unused identical membrane is
removably mounted on said frame before kissing a different person.

REMARKS

This Amendment is responsive to the final Office Action of
November 29, 1994. Claims 1, and 3-22 are pending of which claims
1, and 3-22 have been rejected.

1. Claims 1, 3, 4, 6, 8, 14-16, and 22 have been rejected
under 35 U.S.C. §102(b) as being anticipated by Laguerre, British
Patent No. 1,061,321. Applicant respectfully traverses the
rejection. Initially, claim 22 has been cancelled rendering moot
the §102(b) rejection with respect thereto.

As the Examiner well knows, in order for a §102 rejection to
stand, all of the elements of the claimed invention must be present
in a single reference either expressly or inherently. Radio Steel
& Mfg. Co. v. MTD Products, Inc., 731 F.2d 840, 221 U.S.P.Q. 657
(Fed. Cir. 1984), cert. denied, 469 U.S. 831 (1984). Because
independent claims 1 and 14 recite limitations that are not
disclosed in Laguerre, the rejection of claims 1, 3, 4, 6, 8, and
14-16 can not stand.

Laguerre discloses a marker that includes a vertical support means and a transparent container carried thereby and open at its bottom. The vertical support includes an integral, elongated, substantially horizontal rigid plate having two upright projections integral with the ends of the plate.

In contrast, independent claim 1 of the present invention includes a membrane consisting of two plies that is closed together on three sides and open on a fourth side. The membrane is mounted upon a deformable frame sized to mate with the interior ends of the three sides of the two plies. The frame includes an elongated handle that defines an axis, whereby the frame is angled inwardly from the axis. The frame is also contoured to substantially conform about the cheeks and between the nose and upper lip of the user.

In view of the distinct differences in the above-quoted limitations of independent claim 1 and that which is disclosed in Laguerre, Applicant can not fathom how a §102(b) rejection can be maintained.

Regarding independent claim 14, the limitation of a continuous one-piece closed loop deformable supporting frame and a pliable envelope consisting of two plies of a pliable membrane are likewise not taught by Laguerre.

Give that claims 3, 4, 6, 8, and 15-16 are dependent upon rejected independent claims 1 and 14, and that the independent claims 1 and 14 have been shown not to be anticipated by Laguerre, claims 3, 4, 6, 8, and 15-16 likewise can not be anticipated by Laguerre.

In view thereof, Applicant respectfully requests withdrawal of the §102 rejection.

2. Claims 7, 9, 11-13, 17, and 19 have been rejected under 35 U.S.C. §103 over Laguerre in view of Barker. Applicant respectfully submits that Barker does not add any teaching or suggestion that when combined with the teachings of Laguerre would make dependent claims 7, 9, 11-13, 17, and 19 obvious. Both Laguerre and Barker are directed towards signs or markers whereas the present invention is directed to a face shield. The particular limitations of the face shield, while arguably similar to Laguerre and Barker, are simply not taught or suggested.

In view thereof, Applicant respectfully requests reconsideration of claims 7, 9, 11-13, 17 and 19.

3. Claims 5, 10, and 18 have been rejected under 35 U.S.C. §103 over Rubin in view of McCosker and Favory.

In view of the amendments thereto, Applicant submits that none of the cited references make obvious the limitations of claims 5, 10, and 18 when considering the independent claims from which they depend.

4. Claims 20 and 21 have been rejected under 35 U.S.C. §103 as being unpatentable over Rubin in view of McCosker and Favory and further in view of Kware.

Noting the Examiner's comments regarding the method claims, claims 20 and 21, Applicant has amended such claims to reflect the Examiner's comments.

Therefore, Applicant respectfully submits that claims 20 and 21 are not obvious in view of the cited references and, thus, define over the prior art of record.

In view of the above, Applicant respectfully requests the withdrawal of all rejections to the claims. An early allowance of all claims is hereby solicited.

Respectfully submitted,

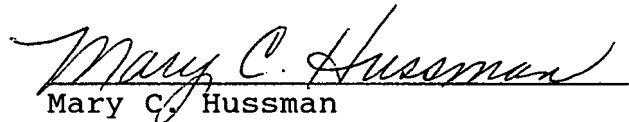


Bruce J. Bowman
Attorney for Applicant
Registration No. 35,458

HERZOG, CREBS & MCGHEE
One City Centre - 24th Floor
515 North Sixth Street
St. Louis, Missouri 63101
Telephone: (314) 231-6700
Facsimile: (314) 231-4656

CERTIFICATION UNDER 37 C.F.R. §1.10

I hereby certify that this Amendment and the documents referred to are enclosed herein and are being deposited with the United States Postal Service on February 27, 1995, in an envelope marked as "Express Mail Post Office to Addressee" Mailing Label Number TB700518401US addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.



Mary C. Hussman